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Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

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KLEIN-BECKER usa, LLC, a Utah limited  
liability company, and KLEIN-BECKER IP  
HOLDINGS, LLC, a Nevada limited liability  
company,

Plaintiffs

vs.

PATRICK ENGLERT individually and d/b/a  
MR. FINEST SUPPLEMENTS,  
STRIVECTIN-SALES, SKIN-CREAM-  
SALES, [STRIVECTINSALES@AOL.COM](mailto:STRIVECTINSALES@AOL.COM),  
MR. FINEST.COM,  
MRFINESTSUPPLEMENTS.COM; TOM  
ENGLERT individually and d/b/a MR. FINEST  
SUPPLEMENTS, STRIVECTIN-SALES,  
SKIN-CREAM-SALES,  
[STRIVECTINSALES@AOL.COM](mailto:STRIVECTINSALES@AOL.COM), MR.  
FINEST.COM,  
MRFINESTSUPPLEMENTS.COM; MR.  
FINEST SUPPLEMENTS, INC.; and JOHN  
DOE CORPORATIONS I-X,

Defendants

**MEMORANDUM IN OPPOSITION  
TO MOTION FOR 60 DAY  
EXTENSION TO FILE RESPONSE  
TO OPPOSITION TO  
DEFENDANT’S MOTION FOR NEW  
TRIAL**

Case No. 2:06-CV-00378

Judge Ted Stewart

Magistrate David O. Nuffer

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Plaintiffs Klein-Becker usa, LLC and Klein-Becker IP Holdings, LLC (“Plaintiffs”)

respectfully submit the following Memorandum in Opposition to Defendants’ Motion for 60 Day  
Extension to File Response to Opposition to Defendant’s Motion for New Trial (Dkt. No. 339)  
(the “Motion”).

**MEMORANDUM**

Defendants have asked the Court for a 60-day extension to reply to Plaintiffs' Memorandum in Opposition to Defendants' Motion for a New Trial in their Motion (Dkt. No. 335) ("Opposition Memorandum"). Defendants, however, do not state valid reasons or circumstances why they should have sixty days to reply to Plaintiffs' Opposition Memorandum. Under Local Rule DUCivR 7-1(b)(4)(B), a movant has fourteen days after service of a memorandum opposing a motion to file a reply to the opposition memorandum. Plaintiffs filed the Opposition Memorandum on February 17, 2011. Any reply was therefore due—taking into consideration additional days for mailing—on March 7, 2011. Plaintiffs emailed the Opposition Memorandum to Defendants on March 29, 2011. Assuming Defendants' statement concerning being unaware of Plaintiffs' filing is accurate, any reply should be due, at the latest, by April 15, 2011. This date allows for fourteen days as per Local Rule DUCivR 7-1(b)(4)(B) plus three days for mailing. Plaintiffs therefore ask the Court to deny Defendants' Motion and set an April 15, 2011 deadline for Defendants to reply to Plaintiffs' Opposition Memorandum.

The Motion also asks for a 60-day extension to reply to Plaintiffs' Reply Memorandum in Support of Motion for Attorney Fees and Costs Pursuant to Rule 54(d)(2) (Dkt. No. 336) ("Reply Memorandum") and Declaration of Jeremy [sic] Kerr in Support of Motion for Attorney Fees (Dkt. No. 337) which supports the Reply Memorandum. Under the Federal Rules of Civil Procedure as well as the Local Rules, Defendants do not have an automatic right to reply to these documents. The Court, therefore, should deny Defendants' Motion as applicable to these two documents.

**CONCLUSION**

The Court should deny Defendants' Motion as applicable to Plaintiffs' Opposition Motion and set a deadline of April 15, 2011 to reply to the Opposition Motion. Moreover, the Court should deny Defendants' Motion as applicable to the other documents referenced in the Motion because Defendants do not have an automatic right to reply to these filings under the Federal or Local Rules.

DATED this 11th day of April, 2011.

/s/ Jason M. Kerr  
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Jason M. Kerr  
Attorney for Plaintiffs

**CERTIFICATE OF MAILING**

The undersigned hereby certifies that on the 11th day of April, 2011, a true and correct copy of the Memorandum in Opposition to Defendants' Motion for 60 Day Extension to File Response to Opposition to Defendant's Motion for New Trial was mailed, postage prepaid, to:

Patrick Englert  
121 Civic Center Drive #275  
Lake St. Louis, MO 63367  
[patrickenglert@aol.com](mailto:patrickenglert@aol.com)

/s/ Jason M. Kerr  
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